

Local Rules of the Superior Court of California, County of Alameda

Title 5. Family Rules

Chapter 1. General Provisions

Rule 5.6. Applicability of emergency rules in this Chapter

A number of the rules in this Chapter are specifically denoted as “emergency rules adopted and applicable during the COVID-19 crisis. Any such rules shall apply to Family cases only and are intended to be consistent with any emergency rules adopted for application in Civil cases under Title 3 of these rules. If there is any inconsistency between the emergency rules in this Chapter and the emergency rules in Title 3, the rules in Title 3 will control.

Rule 5.6 adopted effective April 20, 2020.

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Rule 5.26. Emergency rule re informal settlement conferences during COVID-19 crisis

During the COVID-19 crisis, and commencing April 20, 2020, the Court will begin conducting informal settlement conferences regarding Requests for Orders, Long Cause Hearings, and Trials that were calendared between March 17, 2020, and June 30, 2020. Only those cases where both parties agree to an informal settlement conference will one be set. Those requests can be made directly to the email account of the department where those hearings had been scheduled.

Informal settlement conferences conducted pursuant to this rule are subject to the following conditions:

- (1) The informal settlement conference will not involve a courtroom clerk or court reporter.
- (2) Requests for informal settlement conferences shall include case name, case number and the substance of issues to be discussed during the informal settlement conference.
- (3) Requests for informal settlement conferences should include method of conference (i.e., telephone or video) and include appropriate contact information for all parties and attorneys.
- (4) Requests shall include the need for foreign language interpretation, the language, and whether one or both parties need interpretation.
- (5) The Court will notify parties and counsel of the scheduled informal settlement conference.
- (6) In those informal settlement conferences where agreements are reached and counsel are involved, one counsel will be asked to prepare a Stipulation and Order. For parties that are unrepresented, the Court will request that staff from the Court's Self-Help Center prepare an order.
- (7) For those cases in which no agreement is reached, the Court will re-calendar those matters in the future.
- (8) Parties and counsel should understand that informal settlement conferences are intended to assist parties in reaching resolution of disputed issues. Cases being heard in these conferences will remain in the department to which they are assigned.

Rule 5.26 adopted effective April 20, 2020.

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Rule 5.27. Emergency rule re domestic violence, elder abuse, gun violence, and civil harassment restraining orders calendared in Department 502 during COVID-19 crisis

During the COVID-19 crisis, the Court will accept for filing and process requests for domestic violence, elder abuse, gun violence, and civil harassment restraining orders via drop boxes at the Hayward Hall of Justice and the Rene C. Davidson Courthouse. The Court will also accept such requests via fax filing. The Court will also accept responses to such requests as well as proofs of service by either fax or drop box filing. The Court's handling of requests for restraining orders during the COVID-19 crisis is subject to the following conditions:

- (1) The Court will have no or extremely limited ability to hold hearings on these matters. To the extent the Court is able to hold a limited number of hearings, it will be by remote appearance only. The Court will contact parties directly should a restraining order matter be calendared for remote hearing.
- (2) Given the limitation on the Court's ability to hold hearings, Department 502 has begun a system of "readiness calls" for pending requests for domestic violence and elder abuse restraining orders:
 - (A) For pending restraining orders where both parties are represented by counsel, the Court will contact both counsel to arrange for a phone conference to attempt to seek resolution of the request or possible modifications of temporary orders as well as discuss scheduling for future hearings.
 - (B) For pending restraining orders where both parties have previously appeared or a response has been filed, the Court will schedule a phone conference to determine whether a permanent restraining order is still being sought or whether the Respondent is objecting to the request, then will explain the rules regarding submission of evidence for any future hearing.
 - (C) For pending restraining orders where proof of service has been provided and adequate contact information exists for the Respondent, the Court will schedule a phone conference to ascertain whether Petitioner wishes to proceed with the request and whether Respondent objects or not. The Court will advise Petitioner of the DV-116 process and will provide both parties with information about possible future telephonic/video appearances
 - (D) For pending restraining orders where there is no proof of service, the Court will ascertain whether the Petitioner is still requesting a restraining

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order and provide information regarding how to obtain information to serve the other party.

- (E) At the conclusion of each session of “readiness calls”, the Court will put on the record the substance of each call including the reissuance of any temporary orders, modifications of temporary orders, the issuance of a permanent restraining order, or the dismissal of a request, along with termination of any temporary order issued.

Rule 5.27 adopted effective April 20, 2020

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Rule 5.31. Emergency rule re submitting requests for orders on the pleadings during COVID-19 crisis

During the COVID-19 crisis, and commencing forthwith, those parties wishing to submit their Requests for Orders (RFOs) on the pleadings may submit a request directly to the email account of the department where the RFO is calendared.

- (1) The request for submission applies to all Requests for Orders, Domestic Violence Restraining Orders and Elder Abuse Restraining Orders calendared from March 17, 2020, through June 30, 2020.
- (2) The requesting parties or their counsel must submit local form ALA-FL-EMER-060 (*Stipulation and Waiver of Right to Hearing on Request for Order*) by email with signatures of both parties or attorneys of records, or a combination of the two. That form must specify what documents have been filed that the parties are requesting the Court to consider.
- (3) Each party may submit up to 10 additional pages of pleadings/documents (including exhibits) relating to the request. Those additional documents should be attached to the stipulation and must have been shared with the opposing party at the time of submission. The Court will consider those additional pleadings in making its decision. Those additional documents as well as the stipulation will not be filed with the Court until normal operations resume.
- (4) If there is a request for support, each side must file and serve a current income and expense declaration, with evidence of income attached, consistent with rules 5.92(b)(2) and (3) and 5.260(a)(3) of the California Rules of Court.
- (5) All supporting declarations filed shall be consistent with rule 5.111(b)(2) of the California Rules of Court.
- (6) With the stipulation, the Court will render a decision and notify parties when order is ready, and will work with the parties to determine the method of delivery.

Rule 5.31 adopted effective April 20, 2020.

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Rule 5.46. Emergency rule re currently calendared settlement conferences in Department 504 during COVID-19 crisis

During the COVID-19 crisis, those matters currently calendared in Department 504 for settlement conferences will remain on the Court's calendar. The Court will contact the parties or, if represented, their counsel to ascertain whether they agree to proceed with the calendared settlement conference remotely. If the parties agree, the Court will then arrange for remote conferencing by telephone or video or may direct counsel to make those arrangements. Remote settlement conferences conducted pursuant to this rule will be subject to the following conditions:

- (1) Initially, these settlement conferences may be heard without a courtroom clerk or court reporter available to record any agreements of the parties. Parties or counsel may be ordered to memorialize agreements in an email and circulate those agreements to all parties, counsel and the Court.
- (2) If a courtroom clerk and court reporter are available, all agreements will be placed on the record and will be enforceable as agreements pursuant to Code of Civil Procedure Section 664.6.
- (3) If agreements are reached, counsel will be directed to file a Stipulation and Order with the Court containing all agreements. This Stipulation and Order may then be incorporated into a filed judgment once the Court resumes normal operations.
- (4) Settlement conference statements and other pleadings in conformity with local rules and requirements for settlement conferences may be delivered to the Court as an attachment to an email and open copied to all parties and counsel.

Rule 5.46 adopted effective April 20, 2020.

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Rule 5.51. Emergency rule re trials currently calendared in Department 503 during COVID-19 crisis

The Court will reset all trials calendared for the months of April and May, 2020. Department 503 will develop a protocol and pretrial order to begin conducting trials remotely if and when the Court is assured sufficient staff is available to support such trials.

Even where no trials are being conducted, the judge in Department 503 will be available to conduct informal settlement discussions. Those parties interested in conducting settlement discussions should contact Department 503 directly using the Department 503 email account.

Rule 5.51 adopted effective April 20, 2020.

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Rule 5.66. Emergency rule re proofs of service during COVID-19 crisis

During the COVID-19 crisis, and pursuant to Emergency Rule 3(a)(3), adopted by the Judicial Council of California on April 6, 2020, this rule replaces the requirements for service of process as set forth in rules 5.55, et seq., of the California Rules of Court:

- (1) Attorneys shall accept electronic service on all filed documents otherwise required to be served by mail or in person.
- (2) Electronic service (fax or email) shall suffice for any documents otherwise required to be served by mail or in person:
 - (A) The proof of service shall include the read receipt confirmation of documents served by email.
 - (B) The proof of service shall include the fax receipt confirmation for documents received by fax.
 - (C) The sufficiency of alternative means of service (including service by text and social media) will be determined by the Court on a case-by-case basis in those cases where it can be established that the responding party lacks access to email or fax.

Rule 5.66 adopted effective April 20, 2020.